

NEW HAMPSHIRE SUPREME COURT
JUDICIAL CONDUCT COMMITTEE

JC-07-015-G

In re: Patricia Coffey

STATEMENT OF FORMAL CHARGES PURSUANT TO
NEW HAMPSHIRE SUPREME COURT RULE 40 (9)

The New Hampshire Supreme Court Committee on Judicial Conduct, by its attorney, Philip T. McLaughlin, complains against Patricia Coffey as follows:

INTRODUCTION

1. The Committee is the duly authorized Committee on Judicial Conduct established by the New Hampshire Supreme Court pursuant to the Court's constitutional and statutory authority to provide for the orderly and efficient administration of the Code of Judicial Conduct, Rule 38 of the Rules of the New Hampshire Supreme Court.

2. The Committee is proceeding against Judge Patricia Coffey on the basis of a Committee generated complaint.

3. Judge Patricia Coffey (Judge Coffey) is a sitting justice of the New Hampshire Superior Court, and a member of the New Hampshire Bar.

4. Judge Coffey is the spouse of John J. Coffey (Mr. Coffey) and has been the spouse of Mr. Coffey at all times pertinent to the complaint set forth in this Statement.

THE DISBARMENT OF JOHN J. COFFEY

5. The Supreme Court disbarred Mr. Coffey by its order of August 12, 2005, reported, In re: Coffey's Case, 152 NH 503.

6. In its Coffey decision, the Supreme Court reviewed in detail Mr. Coffey's conduct as an attorney as it pertained to his relationship with his client, Natalie Hopkins.

7. The Supreme Court's factual recitation in support of its finding, concluded that Natalie Hopkins signed a deed conveying to Mr. Coffey her property located on Ocean Boulevard in Rye.

8. The Court's factual recitation describes Ms. Hopkins, at the time that she signed the deed, as an 81 year old woman in deteriorating mental condition, and adopted the finding of the Judicial Referee that there was overwhelming evidence that Ms. Hopkins was, at the time she signed the deed, at best, "... mentally impaired, and at worst, suffering from dementia because of Alzheimer's (disease)." Coffey's Case at 505.

9. The Supreme Court, as a predicate to its analysis of the "sanctioning" portion of its Coffey's Case decision, remarked as follows:

Having found that the Respondent violated the Rules of Professional Conduct noted above, we next consider the appropriate sanction. In exercising our authority, we are mindful that discipline is not intended as a mode of inflicting punishment for an offense (citation omitted). Rather, it's purpose 'is to protect the public, maintain public confidence in the Bar, preserve the integrity of the legal profession, and prevent similar conduct in the future.' (citation omitted) The sanction we impose must take into account the severity of the misconduct. (Coffey's Case at 512)

10. The Supreme Court's action in disbaring Attorney Coffey, and its extensive opinion detailing the facts which predicated its disbarment order, create a partial context within which to assess the conduct of Judge Coffey, as further detailed in this Statement.

FRAUD OF CREDITORS

11. New Hampshire RSA 545-A establishes certain standards pertaining to debtor-creditor relations which, in addition to providing a statutory remedy in particular cases, also constitutes an expression of public policy which applies in considering Judge Coffey's conduct.

12. RSA 545-A:4 characterizes as fraudulent some transfers made by a debtor, whether a creditors' claim arose before or after a transfer was made, when the debtor had an actual intent to hinder or delay a creditor.

13. RSA 545-A:4 II lists factors to consider in determining the presence or absence of fraudulent intent, and some of those factors, when considered in light of the facts of this case, bear upon Judge Coffey's adherence to the Canons of Judicial Conduct.

14. Some of the statutory factors set forth below describe Judge Coffey's conduct (or the conduct of Mr. Coffey to which Judge Coffey was a party).

15. RSA 545-A:4 II: In determining actual intent under subparagraph I(a), consideration may be given, among other factors, to whether:

- (a) The transfer or obligation was to an insider;
- (b) The debtor retained possession or control of the property transferred after the transfer;
- (c) The transfer or obligation was disclosed or concealed;
- (d) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
- (e) The transfer was of substantially all the debtor's assets;
- (f) The debtor absconded;
- (g) The debtor removed or concealed assets;

(h) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

(i) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

(j) The transfer occurred shortly before or after a substantial debt was incurred; and

(k) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

FACTS OF THE CASE

16. June, 2003: A Professional Conduct Committee (PCC) Complaint, which predicated Mr. Coffey's disbarment, resulted in PCC hearings held over a number of dates starting in June of 2003.

17. October 31, 2003: The PCC held its last hearing day in Mr. Coffey's case.

18. November 4, 2003: The Coffey Family Revocable Trust was created.

19. December 1, 2003: Less than a week before the PCC issued its Findings letter, Mr. Coffey and Judge Coffey signed deeds conveying the following valuable property to the Trust:

1. Warranty Deed from John J. Coffey and Patricia C. Coffey to Patricia C. Coffey, Trustee of the Coffey Family Revocable Trust. The deed is dated December 1, 2003, and is recorded in the Rockingham County Registry of Deeds, Book 4215, Page 2458
2. Warranty Deed from John J. Coffey and Patricia C. Coffey to Patricia C. Coffey, Trustee of the Coffey Family Revocable Trust. The deed is dated December 1, 2003. The deed is recorded in the Rockingham County Registry of Deeds, Book 4215, Page 2456.
3. Condominium Warranty Deed from John J. Coffey to Patricia C. Coffey, Trustee of the Coffey Family Revocable Trust. This deed is dated December 1, 2003, and is recorded in the Rockingham County Registry of Deeds, Book 4215, Page 2460.